MONTANA LEGISLATIVE HISTORY

Chapter 260 1979

Bill H _____ S 496 Original bill & history ✓ C

H. Committee on Business & Industry			S. Committee on Business & Industry		
Hearing Date(s)	Mar 07	✓ C	Hearing Date(s)	Feb 15	✓ C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

reservation of an assumed business name, duly executed by the applicant, shall be delivered to the secretary of state. If the secretary of state finds the application complies with the provisions of this part, he shall, when all fees have been paid as provided in this part:

(a) endorse on the original and the copy the word "filed" and the month, day, and year of the filing thereof;

(b) file the original in his office; and

(c) issue a certificate of reservation, to which he shall affix the copy.

(2) The certificate of reservation, together with the copy of the application for reservation of an assumed business name affixed thereto by the secretary of state, shall be returned to the applicant.

History: En Sec. 12, Ch. 260, L. 1979; amd. Sec. 5, Ch. 131, L. 1983; amd. Sec. 4, Ch. 174, L. 1983.

30-13-213. Voluntary cancellation of registration of assumed business name. (1) When the registrant of record of a registered assumed business name wishes to cancel the registration, the registrant shall deliver to the secretary of state an executed and verified original affidavit of cancellation of registration of an assumed business name, which must include but not be limited to the following information:

(a) the complete name of the registered assumed business name to be canceled; and

(b) the name and address, including the street name and number, if any, of the registrant of record.

(2) If the secretary of state finds the affidavit complies with the provisions of this section, the secretary of state shall file it and mail a letter acknowledging cancellation of the filing to the registrant of record.

History: En Sec. 13, Ch. 260, L. 1979; amd. Sec. 5, Ch. 449, L. 1995.

30-13-214. Cancellation of registration of assumed business name upon dissolution of domestic corporation — withdrawal or revocation of foreign corporation's authority to transact business. (1) If the only party of interest of an assumed business name is a domestic corporation which has been dissolved, the secretary of state shall cancel the registration.

(2) If the only party of interest of an assumed business name is a foreign corporation whose authority to transact business in this state has been withdrawn or revoked, the secretary of state shall cancel the registration.

History: En Sec. 14, Ch. 260, L. 1979.

30-13-215. Effect of transacting business without certificate. No person or persons conducting or transacting business in this state without an effective certificate of registration of an assumed business name or having any interest therein may maintain any suit or action in any of the courts of this state under such name.

History: En Sec. 15, Ch. 260, L. 1979.

30-13-216. Evidentiary effect of certificates and documents of secretary of state. All certificates issued by the secretary of state in accordance with the provisions of this part and all copies of documents filed in his office in accordance with the provisions of this part when certified by him shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts stated therein.

History: En Sec. 16, Ch. 260, L. 1979.

Cross-References

Entries in official books and records prima facie evidence, 26-1-605.

30-13-217. Fees and charges to be established and collected by secretary of state. (1) The secretary of state shall establish, charge, collect, and deposit, in accordance with 2-15-405:

(a) fees for filing documents and issuing certificates pursuant to this part;

(b) miscellaneous charges for other services provided by the secretary of state pursuant to this part; and

(c) a license fee from each limited liability partnership at the time of registration under 30-13-203 and at the time of each renewal of registration under 30-13-206 through 30-13-208.

(2) Fees and charges may be paid by credit card and may be discounted for payment processing charges paid by the secretary of state to a third party.

Senate BILL NO. 496

INTRODUCED BY Turnage J. Brown

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW ANY INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION TO USE AN ASSUMED BUSINESS NAME AND TO PROVIDE REGULATIONS FOR THE REGISTRATION OF AN ASSUMED BUSINESS NAME; REPEALING SECTION 30-13-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Assumed business name" means any business name other than the full, true, and correct name of a person.

(2) "Person" means any individual, partnership, corporation, or other association.

Section 2. Registration of assumed business name similar to reserved or registered name or mark prohibited. When an application for registration or amendment to the registration of an assumed business name contains an assumed business name which is the same as or deceptively similar to an assumed business name already registered or to any corporate name, limited partnership, trademark, or service mark registered with the secretary of state, the secretary of state may not register the assumed business name for

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which application is made.

Section 3. Application for registration of assumed business name. All persons transacting business in this state under an assumed business name shall execute, verify, and file with the secretary of state, on forms furnished by the secretary of state, an application for registration of the assumed business name, including but not limited to the following information:

(1) the name and address, including the street name and number, of applicant;

(2) the complete name of proposed assumed business name;

(3) date of first use, in commerce, of assumed business name;

(4) description of business transacted under such name; and

(5) the name of county or counties in which business is being transacted.

Section 4. Filing application for registration -- issuance of certificate. (1) Duplicate originals of application for registration of assumed business name shall be delivered to the secretary of state. If the secretary of state finds the application complies with the provisions of [this act], he shall, when all fees have been paid as provided in [this act]:

(a) endorse on each of the duplicate originals the word "filed" and the month, day, and year of the filing thereof;

(b) file one of the duplicate originals in his office; and

(c) issue a certificate of registration, to which he shall affix the other original.

(2) The certificate of registration, together with the duplicate original of the application for registration of an assumed business name affixed thereto by the secretary of state, shall be returned to the applicant.

(3) The registration of an assumed business name remains in effect until canceled.

Section 5. When registration of assumed business name by foreign corporation prohibited. No foreign corporation which does not have an effective certificate of authority to transact business in this state, may register an assumed business name as provided for in [this act].

Section 6. Term and renewal of assumed business name registration. (1) Registration of an assumed business name is effective for a term of 5 years from the date of registration. Upon application for renewal of registration on forms furnished by the secretary of state, the registration may be renewed for another 5-year term.

(2) Not less than 90 days before the expiration date

of registration of an assumed business name, the secretary of state shall notify the applicant of record of the pending expiration by addressing a notice to the last-known address of such applicant.

(3) If the applicant or person in whose name an assumed business name is registered fails to file an application for renewal with the secretary of state within a 90-day period prior to the expiration date of such registration, the secretary of state shall cancel the registration.

Section 7. Application for renewal of assumed business name. Duplicate originals of application for renewal of registration of an assumed business name shall be executed, verified, and delivered to the secretary of state. The application shall include but not be limited to the following information:

(1) the complete assumed business name;

(2) the name and address, including street name and number, if any, of applicant;

(3) description of business transacted; and

(4) the name of the county or counties in which business is being transacted.

Section 8. Filing of application for renewal of registration of assumed business name -- issuance of certificate thereon. (1) If the secretary of state finds the

application complies with the provisions of [this act], he shall, when all fees have been paid as provided in [this act]:

(a) endorse on each of the duplicate originals the word "filed" and the month, day, and year of the filing thereof;

(b) file one of the duplicate originals in his office; and

(c) issue a certificate of renewal, to which he shall affix the other duplicate original.

(2) The certificate of renewal, together with the duplicate original of application for renewal of registration of an assumed business name affixed thereto by the secretary of state, shall be returned to the applicant.

Section 9. Amendment. An amendment to registration of an assumed business name shall be filed with the secretary of state within 60 days after any one of the following events occurs:

(1) there is a change in the name or identity of the person or persons transacting or having interest in the business for which the name is registered;

(2) there is a change in the identity of the county or counties in which the name is or is intended to be used;

(3) a person having an interest in the business with a registered assumed business name withdraws from the business

or dies; or

(4) the registrant wishes to change the name of a registered assumed business name.

Section 10. Filing amendment to registration of assumed business name -- issuance of certificate thereon. (1) Duplicate originals of amendment to the registration of an assumed business name, executed and verified on forms furnished by the secretary of state, shall be delivered to the secretary of state. The application for amended registration of an assumed business name shall include but not be limited to the following information:

(a) complete assumed business name prior to adoption of amendment;

(b) complete new assumed business name, if applicable;

(c) name and address of the registrant, including street name and number of the business office;

(d) if the name of any person having an interest in the business with a registered assumed business name is to be changed, the new name of the person having an interest in the business with such registered assumed business name;

(e) the name of the county or counties in which the name is being used;

(f) if there is a change in the identity of the county or counties or addition of a county or counties in which the assumed business name is being used or is to be used, the

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name(s) of the new county or counties;

(g) if a person or persons having an interest in a business with a registered assumed name withdraws or dies, a statement of such fact; and

(h) a statement that the amended registration of assumed business name supersedes the original registration and all amendments thereto.

(2) If the secretary of state finds that the application for amended registration of assumed business name complies with [this act], he shall, when all fees have been paid as provided in [this act]:

(a) endorse on each of the duplicate originals the word "filed" and the month, day, and year of the filing thereof;

(b) file one of the duplicate originals in his office; and

(c) issue a certificate of amendment, to which he shall affix the other duplicate original.

(3) The certificate of amendment, together with the duplicate original of the amendment affixed thereto by the secretary of state, shall be returned to the registrant.

(4) The failure of the registrant of an assumed business name to comply with the requirements of this section shall result in the cancellation by the secretary of state of the registration.

Section 11. Reservation of proposed assumed business name. Any authorized person who has not commenced business but intends to commence business may reserve an assumed business name which is not in conflict with the provisions of [section 2] for a term of 120 days by delivering to the secretary of state, on forms furnished by the secretary of state, an application for reservation of an assumed business name, including but not limited to the following information:

(a) the complete assumed business name to be reserved;

(b) the name and address, including street name and number, if any, of applicant;

(c) the date applicant intends to commence business;

(d) description of business applicant intends to transact; and

(e) the county or counties in which applicant intends to conduct business.

Section 12. Filing application for reservation of assumed business name -- issuance of certificate thereon. (1) Duplicate originals of application for reservation of an assumed business name, duly executed and verified by the applicant, shall be delivered to the secretary of state. If the secretary of state finds the application complies with the provisions of [this act], he shall, when all fees have been paid as provided in [this act]:

(a) endorse on each of the duplicate originals the word "filed" and the month, day, and year of the filing thereof;

(b) file one of the duplicate originals in his office;

(c) issue a certificate of reservation, to which he shall affix the other duplicate original.

(2) The certificate of reservation, together with the duplicate original of application for reservation of an assumed business name affixed thereto by the secretary of state, shall be returned to the applicant.

Section 13. Voluntary cancellation of registration of assumed business name. (1) When the registrant of record of a registered assumed business name wishes to cancel such registration, he shall deliver to the secretary of state an executed and verified original affidavit of cancellation of registration of an assumed business name, which shall include but not be limited to the following information:

(a) complete name of the registered assumed business name to be canceled; and

(b) name and address, including the street name and number, if any, of the registrant of record.

(2) If the secretary of state finds the affidavit complies with the provisions of this section, he shall file it in his office and mail a letter of acknowledgment of such filing to the registrant of record.

Section 14. Cancellation of registration of assumed business name upon dissolution of domestic corporation -- withdrawal or revocation of foreign corporation's authority to transact business. (1) If the only party of interest of an assumed business name is a domestic corporation which has been dissolved, the secretary of state shall cancel the registration.

(2) If the only party of interest of an assumed business name is a foreign corporation whose authority to transact business in this state has been withdrawn or revoked, the secretary of state shall cancel the registration.

Section 15. Effect of failing to file application for registration of assumed business name. No person or persons conducting or transacting business in this state without an effective certificate of registration of an assumed business name or having any interest therein may maintain any suit or action in any of the courts of this state under such name.

Section 16. Evidentiary effect of certificates and documents of secretary of state. All certificates issued by the secretary of state in accordance with the provisions of [this act] and all copies of documents filed in his office in accordance with the provisions of [this act] when certified by him shall be taken and received in all courts, public offices, and official bodies as prima facie evidence

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of the facts stated therein.

Section 17. Fees for filing documents and issuing certificates. The secretary of state shall collect for:

(1) filing application for registration of assumed business name and issuing certificate thereon, $15;

(2) filing application for renewal of registration of assumed business name and issuing certificate thereon, $10;

(3) filing amendment to registration of assumed business name and issuing certificate thereon, $10;

(4) filing application for reservation of assumed business name and issuing certificate thereon, $15; and

(5) filing any other instrument not provided for in this section, $5.

Section 18. Repealer. Section 30-13-111, MCA, is repealed.

-End-

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 19, 1979

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members were present.

SENATE BILL 496: Chairman Hazelbaker introduced Senator Turnage, sponsor of SB 496. Senator Turnage stated this bill is an act to allow any individual, partnership, corporation, or association to use an assumed business name and to provide regulations for the regulation of an assumed business name.

Senator Turnage introduced Mr. Kenneth Brown from the Secretary of State's Office, to further explain the bill to the Committee.

There was a question and answer period from the Committee, and the hearing on Senate Bill 496 was closed.

SENATE BILL 500: Chairman Hazelbaker introduced Senator Etchart, sponsor of SB 500. Senator Etchart stated this bill is an act to authorize the creation of health care facilities liability protection trusts.

Senator Etchart told the Committee that hospital costs are going up, and one of the main reasons for this increase in costs is because of malpractice insurance costs for the hospitals.

Senator Etchart also stated that this bill is patterned after Colorado's bill which has been very successful. Senator Etchart called on Mr. Chad Smith, representing the Montana Hospital Assoc., to further explain the bill to the Committee.

Mr. Smith stated that the purpose of this bill is to try to do something about cost containment for the hospitals. He also stated that excessive overhead expenses for malpractice insurance is another reason we are charging our patients more than is necessary. Another reason premiums are high is that they are not adjusted geographically for Montana. Many hospitals are dropping coverage. They would rather meet the cost of a claim without the insurance. Mr. Smith presented an exhibit which is attached. Mr. Smith stated this is a system whereby the hospitals take care of their own problem. Mr. Smith also distributed some proposed amendments which are attached.

Mr. Richard Grant, representing the Montana Hospital Association, with residence in Denver, Colorado, spoke in support of SB 500.

DISPOSITION OF SENATE BILL 496: Senator Blaylock moved that amendments to SB 496 be adopted. The amendments were unanimously adopted by the Committee.

Senator Goodover moved that Senate Bill 496 Do Pass As Amended. Senator Blaylock seconded the motion. The Committee voted that SENATE BILL 496 DO PASS AS AMENDED. Senator Regan abstained from voting.

DISPOSITION OF SENATE BILL 500: Senator Kolstad presented an amendment to SB 500. Senator Goodover also presented an amendment. Senator Kolstad moved that the amendments be adopted. There was a second by Senator Hager. The amendments to SB 500 were adopted by the Committee.

Senator Kolstad moved that Senate Bill 500 Do Pass As Amended. The Committee voted that SENATE BILL 500 DO PASS AS AMENDED. The only "No" vote was Senator Regan.

DISPOSITION OF SENATE BILL 493: Senator Goodover proposed some amendments to Senate Bill 493.

Senator Goodover moved the amendments Do Pass. A Roll Call Vote was taken on the passing of Senator Goodover's proposed amendments. The vote tied 3-3.

Senator Blaylock moved that the bill Do Not Pass. A Roll Call Vote on the motion that SB 493 Do Not Pass was taken. The Committee voted 6-4 that Senate Bill 493 Do Not Pass.

ADJOURN: 12:20 p.m.

12:30 p.m. Call from Chairman Hazelbaker. The Committee later TABLED SENATE BILL 493.

Senator Frank Hazelbaker, Chairman

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

46TH LEGISLATIVE SESSION - - 1979 Date Feb. 19

NAME	PRESENT	ABSENT	EXCUSED
Pat Goodover, Vice Chairman	✓		
Chet Blaylock	✓		
Harold Dover	✓		
Tom Hager	✓		
Allen Kolstad	✓		
Bill Lowe	✓		
John Mehrens	✓		
Bob Peterson	✓		
Pat Regan	✓		
Frank Hazelbaker, Chairman	✓		

STANDING COMMITTEE REPORT

February 19, 1979

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 496

Respectfully report as follows: That Senate Bill No. 496

introduced bill, be amended as follows:

1. Title, line 7.
Following: "REPEALING"
Strike: "SECTION"
Insert: "SECTIONS"

2. Title, line 8.
Following: "30-13-111"
Strike: ","
Insert: "AND 35-11-101 THROUGH 35-11-103"

3. Page 11, line 14.
Following: "Repealer."
Strike: "Section"
Insert: "Sections"
Following: "30-13-111"
Strike: ","
Insert: "and 35-11-101 through 35-11-103"

And, as so amended,
DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

NAME: K. W. Brown DATE: 2-19-79

ADDRESS: Sec. of State office

PHONE: 449-2034

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: Sen. Bill 496

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SB 458 cont.

Michael Mizenko, State Board of Plumbers, testified in support of the bill. He stated that the bill would gaurantee safety to the public in Montana.

Don Kristensen, Dept. of Professional & Occupational Licensing, submitted written testimony in support of the bill

There were no opponents to SB 458.

Questions from the committee followed. Scott Seacat was available from the legislative auditors office to answer questions for the committee.

Senator Healy closed on SB 458.

SB 390

Senator Lockrem, sponsor, was not present. Mr. Ray Wayrynen introduced the bill to the committee. The bill would "provide for the regulation of the electrical profession by reestablishing the state electrical board" and "creating a class of residential electricians". Mr. Wayrynen explained the changes in the bill.

Mr. John Bulkley, State Electrical Board, appeared in support of SB 390. Copy of his testimony is attached.

There were no opponents to SB 390.

Questions from the committee followed. Scott Seacat answered questions for the committee

Mr. Wayrynen closed on SB 390.

SB 496

Senator Turnage, sponsor, introduced the bill to the committee. The bill would "allow any individual, partnership, vorporation, or association to use an assumed business name and to rpovide regulations for the registration of an assumed business name". He explained the changes in the bill.

Mr. Brown, Secretary of States office, arose in support of SB 496.

Following questons from the commitee, Senator Turnage closed on SB 496.

There were no opponents to SB 496.

EXECUTIVE ACTION CONT.

SB 489

Rep. Cooney moved that the amendments presented by the Society of C.P.A.'s be adopted. (see amendment 1,2,3&4 on attached sheet) Discussion on the motion followed. A vote carried unanimously.

Rep. Metcalf moved to amend out of the bill on page 8, lines 13 - 15 the confirmation requirement by the Senate, Discussion on the motion followed. A hand show vote was taken and failed.

Rep. Robbins made a motion that SB 489 AS AMENDED BE CONCURRED IN. Discussion followed. A vote carried unanimously.

Rep. Cooney moved that the committee adopt the statement of intent. Vote was unanimous.
Rep. Gilligan will carry the bill in the House.

SB 496

Rep. Elliosn moved that SB 496 BE CONCURRED IN. Following discussion a vote was taken and carried unanimously. Rep. Ellison will carry the bill in the House.

SB 455

Rep. Cooney moved that SB 455 BE CONCURRED IN. The motion was discussed. A vote carrid unanimously. Rep. Ramirez will carry the bill in the House.

SB 458

Rep. Stobie made a motion to take out the section of a manditory review on page 6, lines 8 and 9. Discussion on the motion followed. It was brought out that if Rep. Scully's bill does not pass the review would be manditory with or without section (4) in the bill. A vote was taken on the motion and carried 10 - 5.

Rep. Stobie moved that SB 458 AS AMENDED BE CONCURRED IN. Following discussion a vote was taken and carried unanimously.

Rep. Ellerd moved the statement of intent be adopted by the committee. A vote carried unanimously.
Rep. Quilici will carry the bill in the House.

SB 390

Rep. Stobie moved that section (4) page 7, lines 17 and 18, manditory review, be stricken from the bill. Following discussion a vote was taken and carried 10 - 5. Rep. Metcalf Nathe, Eller, Vincent and Quilici voted no.

SENATE BILL NO. 496

INTRODUCED BY TURNAGE, S. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW ANY INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION TO USE AN ASSUMED BUSINESS NAME AND TO PROVIDE REGULATIONS FOR THE REGISTRATION OF AN ASSUMED BUSINESS NAME; REPEALING ~~SECTION~~ SECTIONS 30-13-111 AND 35-11-101 THROUGH 35-11-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Assumed business name" means any business name other than the full, true, and correct name of a person.

(2) "Person" means any individual, partnership, corporation, or other association.

Section 2. Registration of assumed business name similar to reserved or registered name or mark prohibited. When an application for registration or amendment to the registration of an assumed business name contains an assumed business name which is the same as or deceptively similar to an assumed business name already registered or to any corporate name, limited partnership, trademark, or service mark registered with the secretary of state, the secretary of state may not register the assumed business name for which application is made.

Section 3. Application for registration of assumed business name. All persons transacting business in this state under an assumed business name shall execute, verify, and file with the secretary of state, on forms furnished by the secretary of state, an application for registration of the assumed business name, including but not limited to the following information:

(1) the name and address, including the street name and number, of applicant;

(2) the complete name of proposed assumed business name;

(3) date of first use, in commerce, of assumed business name;

(4) description of business transacted under such name; and

(5) the name of county or counties in which business is being transacted.

Section 4. Filing application for registration -- issuance of certificate. (1) Duplicate originals of application for registration of assumed business name shall be delivered to the secretary of state. If the secretary of state finds the application complies with the provisions of [this act], he shall, when all fees have been paid as provided in [this act]:

REFERENCE BILL

(a) endorse on each of the duplicate originals the word "filed" and the month, day, and year of the filing thereof;

(b) file one of the duplicate originals in his office; and

(c) issue a certificate of registration, to which he shall affix the other original.

(2) The certificate of registration, together with the duplicate original of the application for registration of an assumed business name affixed thereto by the secretary of state, shall be returned to the applicant.

(3) The registration of an assumed business name remains in effect until canceled.

Section 5. When registration of assumed business name by foreign corporation prohibited. No foreign corporation which does not have an effective certificate of authority to transact business in this state, may register an assumed business name as provided for in [this act].

Section 6. Term and renewal of assumed business name registration. (1) Registration of an assumed business name is effective for a term of 5 years from the date of registration. Upon application for renewal of registration on forms furnished by the secretary of state, the registration may be renewed for another 5-year term.

(2) Not less than 90 days before the expiration date

of registration of an assumed business name, the secretary of state shall notify the applicant of record of the pending expiration by addressing a notice to the last-known address of such applicant.

(3) If the applicant or person in whose name an assumed business name is registered fails to file an application for renewal with the secretary of state within a 90-day period prior to the expiration date of such registration, the secretary of state shall cancel the registration.

Section 7. Application for renewal of assumed business name. Duplicate originals of application for renewal of registration of an assumed business name shall be executed, verified, and delivered to the secretary of state. The application shall include but not be limited to the following information:

(1) the complete assumed business name;

(2) the name and address, including street name and number, if any, of applicant;

(3) description of business transacted; and

(4) the name of the county or counties in which business is being transacted.

Section 8. Filing of application for renewal of registration of assumed business name -- issuance of certificate thereon. (1) If the secretary of state finds the

application complies with the provisions of [this act], he shall, when all fees have been paid as provided in [this act]:

(a) endorse on each of the duplicate originals the word "filed" and the month, day, and year of the filing thereof;

(b) file one of the duplicate originals in his office; and

(c) issue a certificate of renewal, to which he shall affix the other duplicate original.

(2) The certificate of renewal, together with the duplicate original of application for renewal of registration of an assumed business name affixed thereto by the secretary of state, shall be returned to the applicant.

Section 9. Amendment. An amendment to registration of an assumed business name shall be filed with the secretary of state within 60 days after any one of the following events occurs:

(1) there is a change in the name or identity of the person or persons transacting or having interest in the business for which the name is registered;

(2) there is a change in the identity of the county or counties in which the name is or is intended to be used;

(3) a person having an interest in the business with a registered assumed business name withdraws from the business

or dies; or

(4) the registrant wishes to change the name of a registered assumed business name.

Section 10. Filing amendment to registration of assumed business name -- issuance of certificate thereon. (1) Duplicate originals of amendment to the registration of an assumed business name, executed and verified on forms furnished by the secretary of state, shall be delivered to the secretary of state. The application for amended registration of an assumed business name shall include but not be limited to the following information:

(a) complete assumed business name prior to adoption of amendment;

(b) complete new assumed business name, if applicable;

(c) name and address of the registrant, including street name and number of the business office;

(d) if the name of any person having an interest in the business with a registered assumed business name is to be changed, the new name of the person having an interest in the business with such registered assumed business name;

(e) the name of the county or counties in which the name is being used;

(f) if there is a change in the identity of the county or counties or addition of a county or counties in which the assumed business name is being used or is to be used, the

name(s) of the new county or counties;

(g) if a person or persons having an interest in a business with a registered assumed name withdraws or dies, a statement of such fact; and

(h) a statement that the amended registration of assumed business name supersedes the original registration and all amendments thereto.

(2) If the secretary of state finds that the application for amended registration of assumed business name complies with [this act], he shall, when all fees have been paid as provided in [this act]:

(a) endorse on each of the duplicate originals the word "filed" and the month, day, and year of the filing thereof;

(b) file one of the duplicate originals in his office; and

(c) issue a certificate of amendment, to which he shall affix the other duplicate original.

(3) The certificate of amendment, together with the duplicate original of the amendment affixed thereto by the secretary of state, shall be returned to the registrant.

(4) The failure of the registrant of an assumed business name to comply with the requirements of this section shall result in the cancellation by the secretary of state of the registration.

Section 11. Reservation of proposed assumed business name. Any authorized person who has not commenced business but intends to commence business may reserve an assumed business name which is not in conflict with the provisions of [section 2] for a term of 120 days by delivering to the secretary of state, on forms furnished by the secretary of state, an application for reservation of an assumed business name, including but not limited to the following information:

(a) the complete assumed business name to be reserved;

(b) the name and address, including street name and number, if any, of applicant;

(c) the date applicant intends to commence business;

(d) description of business applicant intends to transact; and

(e) the county or counties in which applicant intends to conduct business.

Section 12. Filing application for reservation of assumed business name -- issuance of certificate thereon. (1) Duplicate originals of application for reservation of an assumed business name, duly executed and verified by the applicant, shall be delivered to the secretary of state. If the secretary of state finds the application complies with the provisions of [this act], he shall, when all fees have been paid as provided in [this act]:

(a) endorse on each of the duplicate originals the word "filed" and the month, day, and year of the filing thereof;

(b) file one of the duplicate originals in his office;

(c) issue a certificate of reservation, to which he shall affix the other duplicate original.

(2) The certificate of reservation, together with the duplicate original of application for reservation of an assumed business name affixed thereto by the secretary of state, shall be returned to the applicant.

Section 13. Voluntary cancellation of registration of assumed business name. (1) When the registrant of record of a registered assumed business name wishes to cancel such registration, he shall deliver to the secretary of state an executed and verified original affidavit of cancellation of registration of an assumed business name, which shall include but not be limited to the following information:

(a) complete name of the registered assumed business name to be canceled; and

(b) name and address, including the street name and number, if any, of the registrant of record.

(2) If the secretary of state finds the affidavit complies with the provisions of this section, he shall file it in his office and mail a letter of acknowledgment of such filing to the registrant of record.

Section 14. Cancellation of registration of assumed business name upon dissolution of domestic corporation -- withdrawal or revocation of foreign corporation's authority to transact business. (1) If the only party of interest of an assumed business name is a domestic corporation which has been dissolved, the secretary of state shall cancel the registration.

(2) If the only party of interest of an assumed business name is a foreign corporation whose authority to transact business in this state has been withdrawn or revoked, the secretary of state shall cancel the registration.

Section 15. Effect of failing to file application for registration of assumed business name. No person or persons conducting or transacting business in this state without an effective certificate of registration of an assumed business name or having any interest therein may maintain any suit or action in any of the courts of this state under such name.

Section 16. Evidentiary effect of certificates and documents of secretary of state. All certificates issued by the secretary of state in accordance with the provisions of [this act] and all copies of documents filed in his office in accordance with the provisions of [this act] when certified by him shall be taken and received in all courts, public offices, and official bodies as prima facie evidence

of the facts stated therein.

Section 17. Fees for filing documents and issuing certificates. The secretary of state shall collect for:

(1) filing application for registration of assumed business name and issuing certificate thereon, $15;

(2) filing application for renewal of registration of assumed business name and issuing certificate thereon, $10;

(3) filing amendment to registration of assumed business name and issuing certificate thereon, $10;

(4) filing application for reservation of assumed business name and issuing certificate thereon, $15; and

(5) filing any other instrument not provided for in this section, $5.

Section 18. Repealer. Section SECTIONS 30-13-111 AND 35-11-101 THROUGH 35-11-103, MCA, is ARE repealed.

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